IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2913 of 2000
and
SPECIAL CIVIL APPLICATION No 7758 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

DINESHCHANDRA YOGENDRAPRASAD PATHAK
Versus
SATISHBHAI SUMANTLAL BRAHMBHATT

Appearance:
MRS MADHUBEN SHARMA for Petitioner
MR MAHENDRA K PATEL for Respondent No. 1

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 17/10/2000

COMMON ORAL JUDGEMENT

In view of the fact that the Gujarat State Consumers Disputes Redressal Commission is now available, it is not necessary to entertain Special Civil Application No. 2913 of 2000, more particularly when the

petitioner appeal before the State Commission is pending. The State Commission had initially granted ad-interim stay against execution of the order passed by the District Consumer Forum, Vadodara, but on the next date when no one appeared on behalf of the petitioner, the State Commission directed the petitioner to comply with the order passed by the District Forum. The learned counsel for the petitioner states that since the State Commission is now available, the petitioner will approach the State Commission for appropriate orders. It is further stated that the next date of hearing of the appeal before the State Commission is 16.12.2000, but in the facts and circumstances of the case, the petitioner may move the Commission for an early date of hearing or atleast for hearing of the stay application.

2. It appears that on account of non compliance by the petitioner with the order passed by the District Forum, the District Forum initiated execution proceedings against the petitioner and an order of arrest came to be passed. That order is challenged in Special Civil Application No. 7758/2000.

3. When Special Civil Application No. 7758/2000 came up for preliminary hearing before this Court on 14.7.2000, this Court granted ad-interim stay of operation of the order of arrest of the petitioner on condition that the petitioner deposits 50% of the principal amount as per the order of the District Forum in the original proceedings. Accordingly, 50% of the amount has been deposited before this Court.

Mr MK Patel appearing for the respondent submits that the respondent may be permitted to withdraw the said amount.

4. However, this Court is not inclined to go into the merits of the controversy between the parties as even the question of stay of the orders of the District Forum can be considered by the State Commission.

5. In view of the above, these petitions are disposed of only on the ground that the petitioners has appropriate remedies available before the State Commission.

6. The petitions accordingly stand disposed of. Rule in Special Civil Application No. 2913/2000 as well as notice in Special Civil Application No. 7758/2000 stand discharged. The ad-interim relief granted earlier shall continue till 20.11.2000.

The amount which is deposited with this Court shall be transmitted to the State Commission by 10.11.2000.

October 17, 2000 (M.S. Shah, J.)
sundar/-